
From: Haley Plourde-Cole
Sent: Wednesday, December 4, 2024 10:03 PM
To: Laura Dunning; Mildred Conroy; Haley Plourde-Cole; Olga Vieira; ESI-Opioids
Cc: Pbm
Subject: RE: 2024 ESI Fact Witness Depositions

Follow Up Flag: Follow up
Flag Status: Flagged

Counsel,

We can produce an overlay of [REDACTED] handwritten notes with the native image (which appears to be more legible) and will do so as soon as possible.

Regarding [REDACTED] personnel file, we have not received a discovery request for that file. If a formal discovery request were to be made, we would oppose it, for privacy, relevancy and timeliness grounds, for the same reasons offered by Optum in its 7:09 ET correspondence this evening.

Best,
Haley

Haley Plourde-Cole
Of Counsel
Quinn Emanuel Urquhart & Sullivan, LLP

51 Madison Avenue, 22nd Floor
New York, NY 10010
212-849-7044 Direct
212-849-7000 Main Office Number
212-849-7100 FAX
haleypourdecole@quinnmanuel.com
www.quinnmanuel.com

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From: Laura Dunning <ldunning@levinlaw.com>
Sent: Wednesday, December 4, 2024 11:25 AM
To: Haley Plourde-Cole <haleypourdecole@quinnmanuel.com>; Mildred Conroy <mconroy@simmonsfirm.com>; Haley Plourde-Cole <000000c5aa490270-dmarc-request@LISTSERV.MOTLEYRICE.COM>; Olga Vieira <olgavieira@quinnmanuel.com>; ESI-Opioids <esi-opioids@quinnmanuel.com>
Cc: Pbm <PBM@listserv.motleyrice.com>
Subject: RE: 2024 ESI Fact Witness Depositions

[EXTERNAL EMAIL from ldunning@levinlaw.com]

Haley,

It does not appear we have received production of [REDACTED] personnel file and associated materials. If you believe you have already produced these documents, please identify them in the production. If the materials have not yet been produced, please produce them both through a load file as well in document form (PDFs and/or native files) through a secure link so that we may access the materials more readily in advance of next week's deposition.

Additionally, please advise when we may expect reproduction of the illegible scans of [REDACTED] handwritten notes in a legible format.

Thank you,
Laura

From: Haley Plourde-Cole <haleypourdecole@quinnmanuel.com>

Sent: Monday, December 2, 2024 4:09 PM

To: Mildred Conroy <mconroy@simmonsfirm.com>; Haley Plourde-Cole <000000c5aa490270-dmarc-request@LISTSERV.MOTLEYRICE.COM>; Laura Dunning <ldunning@levinlaw.com>; Olga Vieira <olgavieira@quinnmanuel.com>; ESI-Opioids <esi-opioids@quinnmanuel.com>

Cc: Pbm <PBM@listserv.motleyrice.com>

Subject: RE: 2024 ESI Fact Witness Depositions

Counsel,

Please send a deposition notice for [REDACTED] deposition, including the location (if it will be in person).

Best,
Haley

Haley Plourde-Cole
Of Counsel
Quinn Emanuel Urquhart & Sullivan, LLP

51 Madison Avenue, 22nd Floor
New York, NY 10010
212-849-7044 Direct
212-849-7000 Main Office Number
212-849-7100 FAX
haleypourdecole@quinnmanuel.com
www.quinnmanuel.com

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From: Mildred Conroy <mconroy@simmonsfirm.com>

Sent: Wednesday, November 27, 2024 5:18 PM

To: Haley Plourde-Cole <000000c5aa490270-dmarc-request@LISTSERV.MOTLEYRICE.COM>; Laura Dunning <ldunning@levinlaw.com>; Olga Vieira <olgavieira@quinnmanuel.com>; ESI-Opioids <esi-opioids@quinnmanuel.com>

Cc: Pbm <PBM@listserv.motleyrice.com>

Subject: Re: 2024 ESI Fact Witness Depositions

[EXTERNAL EMAIL from mconroy@simmonsfirm.com]

Haley,

We accept December 11th for [REDACTED] deposition. In the future, please contact us as soon as possible when a date is no longer available. We are trying to balance schedules on our end, too, and any advanced notice will hopefully make the process go more smoothly.

It is inconvenient and surprising that [REDACTED] is not available in December. To avoid any further delay, we do accept January 16th for her deposition. Please let us know ASAP on [REDACTED] availability.

Have a great Thanksgiving.

Mildred

From: owner-pbm@listserv.motleyrice.com <owner-pbm@listserv.motleyrice.com> on behalf of Haley Plourde-Cole <000000c5aa490270-dmarc-request@LISTSERV.MOTLEYRICE.COM>

Sent: Wednesday, November 27, 2024 10:57 AM

To: Laura Dunning <ldunning@levinlaw.com>; Olga Vieira <olgavieira@quinnmanuel.com>; ESI-Opioids <esi-opioids@quinnmanuel.com>

Cc: Pbm <PBM@listserv.motleyrice.com>

Subject: RE: 2024 ESI Fact Witness Depositions

EXTERNAL: Think before you click!

Counsel,

We are continuing rolling productions of non-custodial documents; you will receive one shortly.

We are continuing to hold dates for [REDACTED], but as we are now only two weeks away, we can only continue to hold December 11th for his deposition. Please let us know as soon as possible if you would like to proceed with his deposition on this date.

We have spoken with [REDACTED] regarding her availability and she is not available for any dates in December which do not overlap with [REDACTED], which we understand from your Nov. 22 email would not work for the PEC. She is also available for deposition January 16-17 or 29-30.

We will revert as soon as possible with dates for [REDACTED].

Happy Thanksgiving,

Haley

Haley Plourde-Cole
Of Counsel

Quinn Emanuel Urquhart & Sullivan, LLP

51 Madison Avenue, 22nd Floor

New York, NY 10010
212-849-7044 Direct
212-849-7000 Main Office Number
212-849-7100 FAX
haleylourdecole@quinnmanuel.com
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From: Laura Dunning <ldunning@levinlaw.com>
Sent: Monday, November 25, 2024 6:57 PM
To: Olga Vieira <olgavieira@quinnmanuel.com>; ESI-Opioids <esi-opioids@quinnmanuel.com>
Cc: Pbm <PBM@listserv.motleyrice.com>
Subject: RE: 2024 ESI Fact Witness Depositions

[EXTERNAL EMAIL from ldunning@levinlaw.com]

Olga,

In your emails below and your representations to the Court, you referenced documents that ESI plans to produce that are likely or potentially relevant to the four witnesses for whom we have requested dates. While the production **deadlines** for noncustodial and Rochester hold back documents are not until 12/06 and 12/20, all productions are required to be rolling. If there are documents ESI believes may be potentially relevant to the witnesses for whom we requested dates, please produce them sooner than later in your rolling productions and please do not hold those documents back until the deadlines.

ESI has not made a substantial noncustodial production since October 4 – more than seven weeks ago.

Thank you,
Laura

Laura S. Dunning
Securities and Business Litigation
Shareholder
Levin, Papantonio, Proctor, Buchanan,
O'Brien, Barr, & Mougey, P.A.
205-396-5014
ldunning@levinlaw.com



From: Laura Dunning
Sent: Sunday, November 24, 2024 6:21 PM
To: Olga Vieira <olgavieira@quinnmanuel.com>
Subject: Re: 2024 ESI Fact Witness Depositions

That works

Laura S. Dunning
205.396.5014

On Nov 24, 2024, at 6:07 PM, Olga Vieira <olgavieira@quinnmanuel.com> wrote:

Does 10 am est work?

Olga M. Vieira
Partner
Quinn Emanuel Urquhart & Sullivan, LLP

Mobile: [305-496-2988](tel:305-496-2988)
olgavieira@quinnmanuel.com
www.quinnmanuel.com

On Nov 24, 2024, at 6:44 PM, Laura Dunning <ldunning@levinlaw.com> wrote:

Let's talk tomorrow morning. What time is good for you?

Laura S. Dunning
205.396.5014

On Nov 22, 2024, at 7:10 PM, Olga Vieira
<olgavieira@quinnmanuel.com> wrote:

Sorry, Laura. I wasn't available until now. I'm free tonight, over the weekend, or we can speak Monday. Let me know what works for you. Feel free to call or text me at (305) 496-2988.

Olga M. Vieira
Partner
Quinn Emanuel Urquhart & Sullivan, LLP

Mobile: [305-496-2988](tel:305-496-2988)
olgavieira@quinnmanuel.com
www.quinnmanuel.com

On Nov 22, 2024, at 4:46 PM, Laura Dunning <ldunning@levinlaw.com> wrote:

[EXTERNAL EMAIL from ldunning@levinlaw.com]

Olga – I am around for the next hour or so if you want to talk.

Laura S. Dunning
Securities and Business Litigation
Shareholder
Levin, Papantonio, Proctor, Buchanan,
O'Brien, Barr, & Mougey, P.A.
205-396-5014
ldunning@levinlaw.com



From: Olga Vieira <olgavieira@quinnmanuel.com>
Sent: Friday, November 22, 2024 2:44 PM
To: Pete Weinberger <PWeinberger@spanglaw.com>;
Olga Vieira <000000af4de49972-dmarc-request@listserv.motleyrice.com>
Cc: Laura Dunning <ldunning@levinlaw.com>; Matthew Wasserman <matthewwasserman@quinnmanuel.com>; Pbm <PBM@listserv.motleyrice.com>; ESI-Opioids <esi-opioids@quinnmanuel.com>
Subject: RE: 2024 ESI Fact Witness Depositions

We are talking past each other. Let's have a call to discuss. Happy to speak to you or Laura to resolve this so we can proceed.

Olga M. Vieira
Partner
Quinn Emanuel Urquhart & Sullivan, LLP
(305) 496-2988 Mobile
(305) 402-4880 Main Office Number
olgavieira@quinnmanuel.com

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From: Peter H. Weinberger
<PWeinberger@spanglaw.com>
Sent: Friday, November 22, 2024 3:42 PM
To: Olga Vieira <olgavieira@quinnemanuel.com>; Olga Vieira <000000af4de49972-dmarc-request@listserv.motleyrice.com>
Cc: Laura Dunning <ldunning@levinlaw.com>; Matthew Wasserman <matthewwasserman@quinnemanuel.com>; Pbm <PBM@listserv.motleyrice.com>; ESI-Opioids <esi-opioids@quinnemanuel.com>
Subject: Re: 2024 ESI Fact Witness Depositions

[EXTERNAL EMAIL from pweinberger@spanglaw.com]

Not until you stop demanding an agreement to something you are not entitled to. When you withdraw your email, I am sure Laura Dunning would be happy to discuss this further.

Pete

From: Olga Vieira <olgavieira@quinnemanuel.com>
Sent: Friday, November 22, 2024 3:39 PM
To: Peter H. Weinberger
<PWeinberger@spanglaw.com>; Olga Vieira <000000af4de49972-dmarc-request@listserv.motleyrice.com>
Cc: Laura Dunning <ldunning@levinlaw.com>; Matthew Wasserman <matthewwasserman@quinnemanuel.com>; Pbm <PBM@listserv.motleyrice.com>; ESI-Opioids <esi-opioids@quinnemanuel.com>
Subject: RE: 2024 ESI Fact Witness Depositions

Pete,

Judge Polster said we should work together to resolve this. I'm happy to speak at your convenience.

Olga M. Vieira
Partner
Quinn Emanuel Urquhart & Sullivan, LLP
(305) 496-2988 Mobile
(305) 402-4880 Main Office Number
olgavieira@quinnemanuel.com

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From: Peter H. Weinberger
[<PWeinberger@spanglaw.com>](mailto:PWeinberger@spanglaw.com)
Sent: Friday, November 22, 2024 3:36 PM
To: Olga Vieira <000000af4de49972-dmarc-request@listserv.motleyrice.com>
Cc: Laura Dunning <ldunning@levinlaw.com>; Matthew Wasserman <matthewwasserman@quinnmanuel.com>; Pbm <PBM@listserv.motleyrice.com>; ESI-Opioids <esi-opioids@quinnmanuel.com>
Subject: Re: 2024 ESI Fact Witness Depositions

[EXTERNAL EMAIL from pweinberger@spanglaw.com]

Olga.

Your position is inconsistent with what Judge Poster stated. If ESI's production creates a good cause for re-opening a deposition, we will seek permission to do so with the court. Period. We'll fight it out when it happens, so you can stop demanding something you are not entitled to. Get the depositions we have asked for scheduled..

Pete
Sent from my iPad

On Nov 22, 2024, at 3:22 PM, Olga Vieira <000000af4de49972-dmarc-request@listserv.motleyrice.com> wrote:

Hi Laura,

We need your agreement that you will not reopen these depositions based on the known forthcoming productions, as explained below and during the hearing today. Please confirm and we'll ask the witnesses for dates. If you would like to discuss, let me know.

Thanks,
Olga

Olga M. Vieira
Partner
**Quinn Emanuel Urquhart & Sullivan,
LLP**
(305) 496-2988 Mobile
(305) 402-4880 Main Office Number
olgavieira@quinnmanuel.com

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From: Laura Dunning
[<ldunning@levinlaw.com>](mailto:ldunning@levinlaw.com)
Sent: Friday, November 22, 2024 2:46 PM
To: Olga Vieira
[<olgavieira@quinnmanuel.com>;](mailto:olgavieira@quinnmanuel.com)
Matthew Wasserman
[<matthewwasserman@quinnmanuel.com>](mailto:matthewwasserman@quinnmanuel.com)
Cc: Pbm
[<PBM@listserv.motleyrice.com>;](mailto:PBM@listserv.motleyrice.com) ESI-Opioids
[<esi-opioids@quinnmanuel.com>](mailto:esi-opioids@quinnmanuel.com)
Subject: RE: 2024 ESI Fact Witness Depositions

[EXTERNAL EMAIL from
ldunning@levinlaw.com]

Olga,

Please continue to hold the proposed December dates for [REDACTED] and please also propose December dates for [REDACTED] and [REDACTED] after December 6. As noted below, for scheduling purposes, we would like

to preserve at least one day between any 2024 depositions. We also would prefer not to take depositions on December 13, but if that is the only option for certain witnesses, we may be able to make that date work.

Once we receive all proposed dates, we should be able to confirm a December schedule.

Thank you,
Laura

Laura S. Dunning
Securities and Business Litigation
Shareholder
Levin, Papantonio, Proctor,
Buchanan,
O'Brien, Barr, & Mougey, P.A.
205-396-5014
ldunning@levinlaw.com

<image001.png>

From: Olga Vieira
olgavieira@quinnmanuel.com
Sent: Friday, November 22, 2024 9:00
AM
To: Matthew Wasserman
matthewwasserman@quinnmanuel.com; Laura Dunning
ldunning@levinlaw.com
Cc: Pbm
PBM@listserv.motleyrice.com; ESI-
Opioids <esi-opioids@quinnmanuel.com>
Subject: RE: 2024 ESI Fact Witness
Depositions

Laura and Paul,

Following up on the status report to Judge Polster and my conversation with Paul on Wednesday, we are not taking the position that your right to re-open a deposition for good cause should be waived. Instead, we are pointing out that depositions taken in December will

proceed before document production is complete. We expect to complete our non-jurisdiction specific non-custodial productions in Rochester by December 6th and our "reserve/hold back" custodial productions and non-custodial productions for the jurisdiction-specific client and pharmacy samples in Rochester by December 20th. We have also just selected a new bellwether. While custodial productions will be closed as to the custodians already selected, we anticipate that you will seek some (limited) jurisdiction-specific custodians and jurisdiction-specific non-custodial productions. It is possible, and for some witnesses likely, that productions in Rochester in December and for the new bellwether will contain documents germane to the individuals you seek to depose in December. We are simply asking for your agreement that, should you proceed with taking depositions at this time, knowing about these forthcoming productions, you will not later seek to reopen the depositions based on documents produced in these productions, which you are already on notice that you will be getting.

With respect to the specific witnesses you have requested:

1. [REDACTED] works in fraud and special investigations. There may be additional investigative documents produced in Rochester by December 20th, and we assume you will seek investigative documents for Ogdensburg, and you may want to question [REDACTED] regarding these documents. While we have provided dates for [REDACTED] in December, we suggest you hold off on his deposition until we produce documents related to Ogdensburg. If you want to take his deposition on the dates provided, we ask for your agreement that you will not

seek to reopen his deposition based on forthcoming productions in Rochester in December and the future productions related to Ogdensburg.

2. [REDACTED] was previously Express Scripts' [REDACTED] [REDACTED]. As noted above, we expect to complete our non-jurisdiction specific non-custodial productions in Rochester by December 6th. Assuming you agree that discovery in the new bellwether case will be limited to jurisdiction-specific requests, we think productions germane to [REDACTED] should be complete by December 6th. However, his availability on December 10th or 11th may not be enough time for you to review the final productions and take his deposition on those dates. If you would like to proceed on the dates provided, despite the timing of the December 6th production, please let us know.
3. [REDACTED] is a former employee who held various client services clinical roles at Express Scripts. As you know, you selected several client services clinical custodians as part of your "reserve/hold back" picks, and it is possible that these custodians' documents may be germane to [REDACTED]. As noted above, we expect to complete our "reserve/hold back" custodial productions in Rochester by December 20th. In addition, productions in Ogdensburg related to jurisdiction-specific clients may also be germane to [REDACTED]. We suggest you hold off on [REDACTED] deposition until after we

produce documents related to Ogdensburg. If you want to take [REDACTED] deposition in December regardless, then we will check on her availability for December so long as you agree that you will not seek to reopen her deposition based on the forthcoming productions in Rochester in December and the future productions related to Ogdensburg. Quinn Emanuel will be representing [REDACTED] in connection with all opioids matters and her deposition. Please direct all future communications regarding the deposition and related matters to Quinn Emanuel.

4. [REDACTED] is a former employee who worked in pharma manufacturer contracting at Express Scripts. There may be additional pharma manufacturer contracts and related documents produced in Rochester by December 6th. Assuming you agree that discovery in the new bellwether case will be limited to jurisdiction-specific requests, we think productions germane to [REDACTED] should be complete by December 6th. However, this may not be enough time for you to review the final productions and take her deposition in December. If you would like to proceed in December, despite the timing of the December 6th production, please let us know and then we will check on her availability for December. Quinn Emanuel will be representing [REDACTED] in connection with all opioids matters and her deposition. Please direct all future communications regarding the deposition and related matters to Quinn Emanuel.

Let me know if you would like to discuss.

Olga M. Vieira
Partner
**Quinn Emanuel Urquhart & Sullivan,
LLP**
(305) 496-2988 Mobile
(305) 402-4880 Main Office Number
olgavieira@quinnmanuel.com

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From: Matthew Wasserman
matthewwasserman@quinnmanuel.com
Sent: Tuesday, November 19, 2024 8:55 AM
To: Laura Dunning
ldunning@levinlaw.com
Cc: Pbm
PBM@listserv.motleyrice.com; ESI-Opioids <esi-opioids@quinnmanuel.com>
Subject: RE: 2024 ESI Fact Witness Depositions

Laura,

We did not expect our proposed condition about redepositing witnesses to be controversial. Judge Polster ordered in the initial Deposition Protocol applicable to all cases in this MDL that “[d]epositions taken in this MDL pursuant to this Order shall not be retaken in this MDL without further order of the court upon good cause shown or an agreement of the parties.” ECF No. 643 at 4. And Special Master Cohen told the PEC that it should not be reopening depositions and that “if you’re going to start taking depositions after you get

custodial productions knowing that there are other productions still to come, both custodial and noncustodial, you need to pick deponents who it seems least likely that that issue will arise.” Aug. 16, 2024, Hrg Tr. 46:12–47:25; 115:18–116:24.

We are happy to coordinate depositions for December, but we must insist on your agreement, in advance, that you will not seek to reopen depositions based on forthcoming document productions that we all know are coming (namely, the December productions in Rochester and the productions in the new bellwether). If the PEC refuses to agree that it will not reopen depositions of these individuals, then we will not hold these dates and will insist that the PEC depose these individuals after productions containing responsive documents that could be germane to these individuals are completed.

Matthew K. Wasserman | Associate
Quinn Emanuel Urquhart & Sullivan, LLP
1300 I St. NW, Suite 900
Washington, DC 20005

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From: Laura Dunning
<ldunning@levinlaw.com>
Sent: Monday, November 18, 2024 3:47 PM
To: Matthew Wasserman
<matthewwasserman@quinnemanuel.com>
Cc: Pbm
<PBM@listserv.motleyrice.com>; ESI-Opioids <esi-opioids@quinnemanuel.com>
Subject: Re: 2024 ESI Fact Witness Depositions

[EXTERNAL EMAIL from
ldunning@levinlaw.com]

Matt,

In the event it helps with scheduling, if we can find acceptable dates for [REDACTED] and/or [REDACTED] in December 2024, we may be willing to push [REDACTED] to 2025.

Thanks,
Laura

Laura S. Dunning
205.396.5014

On Nov 18, 2024, at
11:55 AM, Laura
Dunning
<ldunning@levinlaw.co
m> wrote:

Matt,

Thank you for the proposed dates. Please continue to hold the dates for [REDACTED] and [REDACTED], and please also propose a few 2024 date options each for [REDACTED] and [REDACTED].

For scheduling purposes, we would like to preserve at least one day between any 2024 depositions. We also would prefer not to take depositions on December 13, but if

that is the only option for certain witnesses, we may be able to make that date work.

Finally, we object to your proposed condition that witness depositions taken now cannot be re-opened based on later produced documents, but we can discuss that further once potential dates are identified.

Thank you,
Laura

Laura S. Dunning
205-396-5014
ldunning@levinlaw.com

<image001.png>

From: Matthew Wasserman
matthewwasserman@quinnmanuel.com
Sent: Friday, November 15, 2024 1:28 PM
To: Laura Dunning
ldunning@levinlaw.com
Cc: Pbm
PBM@listserv.motleyrake.com; ESI-Opioids
esi-opioids@quinnmanuel.com
Subject: RE: 2024 ESI Fact Witness Depositions

CAUTION: This email message is EXTERNAL.

Laura,

We are open to trying to schedule [REDACTED] and [REDACTED] depositions in 2024, but only if the PEC agrees that it will not seek to depose these witnesses again in this case or for the new bellwether currently being selected. There may be documents not from the deponent's custodial files that Express Scripts later produces by the December 20 deadline related to the client and pharmacy sample and "holdover" custodians or for the new bellwether that could be germane to these witnesses. As just one example, there may be additional, responsive EFWA investigative reports specific to the new bellwether jurisdiction that Express Scripts would need to collect and produce after the new bellwether is chosen and discovery in that case commences. The PEC would need to agree that they could not re-depose [REDACTED] or [REDACTED] because of any later produced documents not from the deponent's custodial files. If you do not agree, then the depositions should wait until after the second bellwether is chosen and Express Scripts has sufficient time to collect and produce responsive documents for the new bellwether.

Provided the PEC
agrees that it will not
seek to depose these
witnesses again in this
case or for the new
bellwether currently
being selected, we can
offer December 10 or
11 for [REDACTED] in St.
Louis and December
17 or 18 for [REDACTED]
[REDACTED] in St. Louis.

Matthew K. Wasserman
| Associate
Quinn Emanuel Urquhart
& Sullivan, LLP
1300 I St. NW, Suite 900
Washington, DC 20005

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From: Laura Dunning
<ldunning@levinlaw.com>
Sent: Thursday,
November 14, 2024
10:53 AM
To: Matthew
Wasserman
<matthewwasserman@quinnemanuel.com>
Cc: Pbm
<PBM@listserv.motleyrake.com>; ESI-Opioids
<esi-opioids@quinnemanuel.com>

**Subject: 2024 ESI Fact
Witness Depositions**

[EXTERNAL EMAIL from
ldunning@levinlaw.com]

Matt,

Please provide 2024 deposition dates for the following two fact witnesses:

1. [REDACTED]
2. [REDACTED]

Thank you,
Laura

Laura S. Dunning
*Securities and
Business Litigation*
Shareholder
Levin, Papantonio,
Proctor, Buchanan,
O'Brien, Barr, &
Mougey, P.A.
205-396-5014
ldunning@levinlaw.com

<image001.png>

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